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C. A. Lefevre

REDEMPTION AND SALE
OF THE
LAND-TAX.

THOUGHTS

ON THAT

Interesting Subject;

AND

REMARKS

ON THE

ORIGINAL ACT

PASSED FOR THAT PURPOSE IN JUNE 1798;

AND ON

THE ACT

LATELY PASSED, TO EXPLAIN AND AMEND THE SAME,

— Si quid novisti rectius istis;
Candidus imperti: si non, his utere mecum. Hor.

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RECEPTION AND SALE

LAND TAX

THOUGHTS

ENDING BRIDGE

REMARKS



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PREFACE.

THE object submitted to the public consideration by the permission to redeem, or purchase, the land-tax, is a very important one: not so much so, with respect to the nation, who in the aggregate (through the medium of the commissioners, their agents), stand in the situation of venders, as with regard to individuals, who are empowered by the acts, the subject of the ensuing sheets, to become purchasers. In this point of view have the following remarks been written; and in no other, are they now addressed to the proprietors of landed property.

The acts draw no resource to the country, but the difference between the dividend paid, and the tax received, by the purchaser. This would not be considerable, even were the whole to be disposed of; more than a counterpoise to this trifling

trifling benefit is *the annihilation* from the individuals (and therefore from the state) of all future increase of property, on the capital of the stock, transferred as the consideration, and which otherwise, those individuals would hereafter have the benefit of, by the opportunity of improving it for the advantage of themselves and their families, in the acquisition of other property. The acts do not impose any tax or burden upon the people; they are the mere vehicle of *sale* and *purchase*, or transmutation of property from the state, personified as a seller, to any person who is willing to become the buyer. Instead of a tax or imposition, it has been held up, both in and out of Parliament, as a measure intended to produce considerable benefit to individuals.--- The first act was passed at the close of the last session. A publication has since appeared, recommendatory of the measure. The exordium to it appears to be written in a singular style; it sets out with asserting, " that
 " the *benefits likely* to arise from this measure to
 " the *public* are more important, than from any
 " other operation in finance, since the funding
 " system

“ system took place, except the acts passed
 “ within the last twelve years, for ensuring a
 “ gradual reduction of the national debt. To
 “ *individuals* the advantages are *equally certain*
 “ *and considerable*: perhaps there is no instance
 “ of any measure so plainly and powerfully
 “ *combining the public and private interests*.---
 “ While it will increase in a very great degree
 “ the resources of the country, it not only,
 “ will not *impose any burden on* the subject, but
 “ will actually give a *pecuniary* advantage to all
 “ those who become purchasers*.”

Unable to discern the connexion between the
 benefits *likely* to arise to the public, and those
 which are said to be *equally certain* to individuals,
 or to discover that the measure did in any
 way, much less so plainly, combine the public
 and private interests; and being totally at a loss
 to comprehend (although the requisition of a
 greater annual dividend, than the tax may be
 deemed not to impose a burden,) that the measure
 will actually give a *pecuniary* advantage to those
 who become purchasers; the author was neces-

* See octavo pamphlet, published by Bunney and Co, Crane Court.

farily led, from inclination, as well as from his interest in the subject, arising from his property, and as a commissioner of the land-tax, very maturely to consider the *act for sale*, and the explanatory observations on it, in the publication alluded to, and he availed himself of every opportunity which presented itself, to converse with those, who were likely from their habits, or their situations in life, to have intelligence upon the subject. The investigation, instead of being attended with the wished-for satisfaction, has produced numerous material objections; the result has given rise to the ideas disclosed by the following pages. During the time they have been in a course of printing, another pamphlet on the subject has been published by the same booksellers, entitled, "*Observations on the Explanatory Act for the Redemption of the Land-Tax, showing in what Instances the Provisions of the former Act have been amended, and to what particular Cases the additional Provisions of the Explanatory Act are applicable.*"

Upon the passing an act of this nature, explanatory of that which is to guide the conduct

duct of all those who in the several departments, are to act officially; and to be the groundwork of the title, of all those who mean to create to themselves a property under it; one would imagine that every person is enabled to peruse the act in question and discern the various alterations, without their being pointed out. Be that as it may, it is certainly necessary, for those who are concerned, attentively to consider the *explanatory act* itself, previous to any observations or comments thereon. The author of the following remarks has not discovered in that pamphlet any matter that induces an alteration in the sentiments he entertains and has disclosed: on the contrary, they are strengthened thereby, and he cannot help observing, that the introductory section therein is as singular in its matter, as the exordium of the former pamphlet of observation appeared to be in its style. It asserts,

“ that the principal alterations which have met
 “ the attention of the Legislature (in this explanatory or amended act), have arisen from
 “ the great irregularities that had been gradually
 “ introduced into the mode of assessment; a
 “ fact of which the Legislature could not be sup-

“ posed to have cognisance, at the time of passing the late act, but which has since been brought to light in consequence of its execution.”

Surely it would have been possible for the most uninformed commissioner, the least intelligent of the assessors or collectors, or almost any single proprietor of land in any one parish in the kingdom, to have explained those irregularities, to the satisfaction of the Legislature. It should have been a previous inquiry, as the knowledge of that fact ought to have been the foundation of an act, which though declared a public act, is *of the nature of a private one* between man and man, in as much as it has (like other private acts for sale,) for its object, the making a title to, selling and conveying “ not only landed and real property of every description and every tenure,” but also (as the author of the late pamphlet observes, with great propriety) has for its consideration “ all the various limitations and modifications of estate and interest of which property of the same tenure is susceptible.” The author
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has reason to believe the irregularities alluded to have already given rise to much litigation and uneasiness, in various parts of the kingdom, which most likely will spread considerably, under the clauses and operation of the amended bill.

To those who have hastily adopted their line of conduct, by having already purchased, the observations in the ensuing sheets will probably afford no consolation; indeed of this class of persons it cannot be expected they should seek any other than that contained in the royal declaration at the opening of the present session—
 “ That the aid given to public credit by the
 “ plan for the redemption of the land-tax *had*
 “ *been productive of the most beneficial effects.*”
 Neither will it check that avidity for purchasing which appeared from the assertion of the Right Honourable Mover of the amended bill, to be very general throughout the kingdom, and which was stated as an apology for the pressing haste in passing the act of the present session; but to those individuals, whether few or many, who, in matters relating to their property,

weigh

weigh in the scales of deliberate reason and sound judgment, the circumstances and consequences attendant on every novel measure before they embark in it, who have resisted the captivating eloquence with which this plan was first introduced into Parliament, and the powerful persuasions which have been since exerted, to hurry it into effect, and who are therefore likely to bestow some private consideration upon a plain discussion; these observations are with great deference submitted; they contain in substance the reasons, which, blended together, have induced the author to decline in any place to redeem his land-tax, upon the plan and terms projected by the original act, or the amended one. By the *strongly biassed*, they will be rejected. By the candid, they will be received not unkindly; and if they shall tend to illustrate any obscurity, or, by their propriety, should produce some good, or rather preclude, an inconvenience to any one landholder, or his family, the author will feel himself thereby very amply recompensed for the pains bestowed in their production. They have not been hastily

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intruded

intruded on the proprietors, nor unnecessarily delayed.

Nec tardum opperior, nec præcedentibus insto. HOR.

Should they, on a perusal, fail to produce a salutary effect to those interested in the subject, the author will rest satisfied with having disclosed his sentiments, sanctioned as they have been by those friends to whom he has communicated them, and whose judgment he highly reveres.

January 1799.

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THOUGHTS

ON THE

Redemption of the Land-Tax, &c.

IN the progress of the following pages, continual care will be exercised to prevent even an allusion to the propriety of selling the land-tax in a political point of view; it would be unwise and improper: that consideration is quieted, at least it is not intended to make part of the subject of the present inquiry; in which, *the acts* will only be considered as the means of furnishing a title to the purchasers of property to be acquired under them.

Almost every individual of the state, whether man, woman, or child, now living, and also those unborn, are, or may be, interested in the land-tax, by the present possession, or by the speedy transmutations of property, whether such transmutations happen by the voluntary act of the possessor, or by the act of God. The act
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therefore which authorizes the redemption (as it is styled) or the sale of the land-tax, is as *important and interesting* both to the state and to individuals, as it is *new* in its nature; for it is not of daily occurrence in the annals of legislature that an individual is permitted to purchase of the rest of the kingdom *real estate*, or that which so far favours of it that it is not to be distinguished from it, except as it may *be in its nature changed by the law authorizing its sale*. The questions therefore which may arise under a law of this important and delicate nature may be numerous; must be deserving every one's close attention; and in particular should be very maturely weighed by those who intend to be concerned in any transactions under it. That difficulties have arisen already, which would either operate as an embargo on the execution of the act, or might lead in future to questions, is obvious from the motion* which has induced the Author to commit his sentiments to paper. —The Chancellor of the Exchequer (whose transcendent powers and abilities stand universally confessed) seems to glory in the occasion of introducing a bill to amend the law for sale of the land-tax. It is an illustrious mark of a great mind to acknowledge error and to amend it; that principle of action is worthy of him.

* Motion for leave to bring in a bill to amend the act for redemption of the land-tax.

As Chancellor of the Exchequer, viewing the act to be amended, as an act of *revenue*, and considering therefore that every attempt to facilitate its execution, and advance it towards perfection, is of service to the state, and an accession of credit to that administration wherein he has so long maintained a conspicuous character, it must be acknowledged that he is acting meritoriously; but did Mr. Pitt, as a *lawyer* (and no man will deny but that he is one), or in the light of a proprietor of land, consider the act for the sale of the land-tax, voluminous and intricate as it is, to be the foundation title-deed to two millions a year issuing out of real estate, he would dread and deprecate the necessity of an immediate alteration of that law in *limine*: he would then perchance, in one moment, discern that the benefit to the state, even if the whole land-tax should be sold, (which from the insuperable difficulties now only beginning to unfold themselves probably never can be,) is trifling, very trifling, when compared with the numerous inconveniences which may arise to the present purchasers of land-tax, or their descendants. No nation on earth is so easily captivated by popular clamour, or a favourite object or topic, as the English. The sale of the land-tax has been held up in glowing colours! We have heard much of *advantages* both by the promulgators of the act, in the two Houses of Parliament, and

since, by the clerks to the commissioners in different counties; but let us coolly and dispassionately inquire—Has any one man in this kingdom, who, endued with professional ability, having deliberately considered every part of this complex act (now to be amended), attempted to point out any *real advantages* likely to accrue to persons purchasing their land-tax? Has any man, so qualified, pointed out the facility or the means of *disposing of this property*, which, if we are to credit reports, many persons are anxious to purchase? Few persons of property with whom the Author has conversed have shown any disposition to contract. In different counties, and in different parts of those counties, many seem to be endued with a total ignorance of the nature of the property they are authorized to purchase, of the act empowering them to do so, of the nature of the purchase when they have made it; whether it is to be *real* or *personal* property (for it is to be *each* upon different occasions); of the trouble and expense they will be put to, if they buy under limited estates, and mean to avail themselves of the lure held out of being empowered to sell; or of the inconveniences they or their posterity may be put to, if ever they should be desirous to part with this property they seem now so eagerly to pant after: some, indeed, have seemed to proceed on the narrow principle that they are now rated
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lower than other proprietors in the same parish; and others, from an ill-grounded fear, that some other persons may purchase this land-tax or rent-charge, issuing out of their property; and others again, that their present land-tax will, if they do not purchase it, be increased. How far either of this description of men are just in their notions—how far the mode allowed by the act of acquiring the property under it is facile, and how far the property is desirable as a purchase, will be best determined by an attentive consideration of the *act* already passed, and of that intended to amend it, *through which, and through which only, he can hereafter make his title to the property he is now about to acquire*; and if he is not able to do so, to the future satisfaction of those professional men whose province it is peculiarly to investigate the titles to property, he may probably be embarrassed in his attempts to dispose not merely of the land-tax, *but even of the property to which it is attached*, or out of which it is issuing.

Long intercourse with the nature of land-tax, from a variety of property in different places and under different rates, and frequent experience of the different modes of acquiring and disposing of real property by the laws of his country, have led the author to these remarks; and he is impelled to them by reflecting, that though this act attempts a facility of purchase, yet that in a future disposition or sale of this real property the purchaser

chaſer may find unexpected difficulties, if he is not attentive to a complete and correct compliance with every part of the acts. Whiſt the original act was pending, and ſince it has been paſſed, whiſt its execution appeared expedient and did not meet obſtacles, the author felt a degree of delicacy in divulging ſentiments which may operate with ſome proprietors as prohibitory: but when an act of this ſerious and momentous nature is found in its earlieſt commencement to have been either injudiciously, incompletely, or incorrectly formed, and that admitted by its parent, ſanguine as he was; when the titles of thouſands are about to depend upon it; it would be *injurious to ſociety, and diſhonourable to any man diſcerning objections to this act in its future operations*, to withhold them from the public. Thoſe who may think them deſerving their attention, may find their recompence eventually, but ſhould they not do ſo, the pure and laudable motives of the author of them (diſcloſed by this production) will effectually operate to his excuſe. It is therefore his intention to review curſorily the original act; and alſo the amended act, and ſlightly to comment on the clauſes in order as they follow, and leave it to the unbiassed determination of every landholder to decide *whether the advantages likely to reſult from his purchaſe will compensate for the preſent expenſe and trouble, and*
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the future risk and difficulties to which he will be subject.

The preamble states, that the object of the act may conduce to strengthen the public credit, and to augment the national resources, but without declaring *that the redemption or purchase would be attended with any advantage to the proprietor.*

Sections 1, 2, 3, and 4.—The first clause creates a *perpetuity* in the land-tax; the 2d and 3d relate to *personalty*; the 4th enables his Majesty to *select* from the commissioners of land-tax in different districts some to be commissioners for sale.

One would suppose the persons who advised this clause were almost entirely unacquainted with the meritorious conduct of that useful body of men, the commissioners of land-tax, who now devote a great portion of their time, incur a considerable expense, create to themselves a great variety of uneasiness frequently with their neighbours of different ranks and conditions, by administering, without salary, fee, or reward, the various complicated tax-acts (exclusive of land-tax) submitted to their care, and by deciding the important questions arising under them; they would not otherwise have occasioned this invidious selection, have risked the harmony and future co-operation of the commissioners in business so material to the state, and in which their assistance

assistance is so very essential; nor would they have acted so injudiciously as to have made it necessary for proprietors to travel or transmit from every district of a county to a county meeting of commissioners, to obtain certificates for sale, &c. which they might, with equal benefit to the state, and far more facility to themselves, have obtained within their respective districts.

Sect. 5—Contains the oath to be taken by commissioners for sale and of appeals.

Sect. 6—Authorizes commissioners to examine persons upon oath, and to require from persons claiming a preference under the act, the production of deeds relating to their estates.

Sect. 7—Declares false evidence to be perjury.

Sect. 8—Empowers two or more of the commissioners specially to be appointed to contract with all persons, bodies politic, &c.

Sect. 9—Directs the contract to be in the form specified in the appendix to the act, and that the consideration shall be so much $\frac{3}{4}$ per cent. consols or reduced as will *annually exceed* by its dividend the land-tax to be purchased *by one tenth part thereof*.

This is neither more nor less than voluntarily paying to the state an *increase upon the land-tax* of the person contracting; but that any man, if he now possesses stock, should consent to forego all future benefit of rise on his funded property in
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times of peace and prosperity, which he must look forward to now with an increased expectation; or, if he does not now possess it, that he should contract, and run the risque of the immense rise upon him, which may happen during the period allowed for instalments, exceeds credibility! It can arise only from pure patriotism. It is a line of conduct which is not to be found in any man dealing on any other occasion!

Sect. 10—Allows a period of *four years* for transfer of the stocks by sixteen instalments; but if the purchasers were to avail themselves of it, probably their conduct would militate with the recital in the preamble of the act, at this important conjuncture.

Sect. 11 and 12—Empower corporations, trustees, &c. &c. to contract, and to do so in preference, previous to *Lady Day 1799*.

Sect. 13—Directs that persons in possession, shall be preferred to those in reversion, if they offer to contract previous to the *25th of December 1798*; and if they omit to do so, then those in remainder are to have a preference, in case they shall enter into a contract previous to *Lady Day 1799*.

Was this intended? What reason can there be for the difference that persons in possession should only be required to offer to contract, whilst those in reversion are actually to enter into a contract?

Sect. 14—Declares leases at rack-rent shall not be prejudicial to the preference of the
 c lessors

lessors, though the lessee is to pay the tax; and that where the land-tax is payable by the tenant, and redeemed by the landlord, it shall be added to the rent, and recoverable as such.

• This is a fair and proper privilege for the landlord, without being in any wise an injury to the tenant; and tends to facilitate the sale, in a case, where otherwise, from the nature of the contract, it might not take place.

Sect. 15—Enables persons redeeming land-tax, to deduct from fee-farm rents, such a fair proportion, as would have been payable in case of non-redemption.

Sect. 16—Enacts, that, in case of difficulties for want of distinct assessments on tithes, fee-farm rents, &c. the commissioners of land-tax are to settle the same.

This should rather have been directed to be done by the assessor. From this, and from several other parts of this act, it should seem as if the framers of it looked upon the commissioners in the light of assessors; for the fact is, that all land-tax assessments are made by the assessors, who know, or are supposed to know, (*which the commissioners do not,*) the particular property upon which the assessment is made; and which assessment, containing only the names of the proprietors and of the tenants, sometimes of separate property, and in others of different properties, and the sum assessed, is what the commissioners yearly

yearly sanction, without any scrutiny, or even inspection, relying on the assessors.

Sect. 17.—This is a very material clause, and highly worthy the attention of the proprietor. It enacts, that persons claiming benefit of preference, shall produce to the commissioners of the land-tax a *description of their lands*, and wisely directs, that the description shall contain the *respective natures and quantities, or reputed quantities of the premises*; the commissioners of land-tax are then to ascertain and settle the amount of the land-tax, and grant a certificate thereof; and upon the production of that certificate to the commissioners for sale, they are to examine and amend the same, if necessary, and are then authorized to contract with the persons applying for such redemption; and upon the production at the Bank of such contract and certificate, and upon the transfer of so much of the stocks before mentioned, as will yield annuities beyond the amount of the land-tax, by one tenth part thereof, or of the first instalment thereof, so as it be not less than one sixteenth part of the whole stock to be transferred, every such person shall be entitled to have a certificate or receipt thereof from the cashiers of the Bank; and upon the registry of such certificates, contracts, and receipts, with the commissioners for the affairs of taxes, the premises comprised in such contracts shall from thenceforth be exonerated from the land-tax charged thereon, *unless* the person contracting shall, at the time of entering into the contract, declare to the commissioners his or her option, to be con-

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sidered on the same footing as the person purchasing, without being interested; in which case, such persons shall be entitled and subject to the like *benefits, advantages, conditions, and restrictions*, as persons not interested and purchasing, would be after the 25th of March 1799.

The first certificate mentioned in this clause is the *corner-stone of title to this rent-charge*, or real property, to be purchased or acquired by it. It is conceived therefore to be of the highest consequence to the proprietor, that it be accurate, and not contain merely the quantities and occupiers' names, but also the best description of boundaries, and other criterions of ascertainment, that the subject will admit. If, in some property, indeed, as in that of a house alone, or in some instances where the owner being seised in fee, and sinks or exonerates his tax, it should not be deemed quite so important, yet in every case of preference, by tenant for life, &c. in every case of purchase by third persons, being strangers to the property, and in every case of farms or lands of any extent, which may be divided or altered by letting, or in point of form by increasing or diminishing the size of enclosures, by the making of roads, by cutting canals, and various other causes, it is of the very highest consequence to the proprietors, that the certificate should be attended with that correctness and precision, that it may not quickly, or at a future distant period, be an obstacle to the part-
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ing with the land-tax, now purchased and meant to be kept on foot. And to illustrate this the more forcibly, it may not be deemed an utterly impossible case, to suppose that A. contracts with B. for the purchase of a large estate *free from land-tax*; this very circumstance either being, or avowed to be, the grand inducement for such purchase. On inspecting the title to the land, which must, in addition thereto, contain the title to the land-tax, (whether exonerated or kept on foot,) by the purchaser's counsel, he is requested particularly to attend to the *correctness of the title* to the land-tax, and he finds such a defect in the certificate, as precludes him from stating, that it is in any degree sufficient to authorize him to approve it, and thereupon his client, the purchaser, declines to complete his purchase *of the land*, and drives the vender to a bill for a specific performance. Though the event of such a suit may even be favourable to the seller, yet what an inconvenience will he have voluntarily brought upon himself? And if such be the consequence of a decision in his favour, what must it be, should he be unsuccessful? It is too obvious to require a single comment. Thus far as to the *first* certificate: as to the *second*, the consideration to be so much *stock*, as will yield a dividend larger than the land-tax, and the purchaser thereby instantly virtually paying an *increased land-tax*, and depriving his family of a property, which, in capital,

tal, must immensely increase, (if that Providence which has so conspicuously enabled and defended our naval power, so surprised and awed mankind, should procure for this favoured isle the long-wished-for blessings of a glorious peace,) in exchange for a rent-charge, which can never increase in yearly amount, and in a very trifling degree in value. What then shall we say of such purchaser? Why, either that from haste he has mistaken the nature of the object he was in pursuit of, or, that as a patriot, he thinks it right to purchase, at any rate, a property, which he can much easier acquire, than dispose of, if ever he or those who are to inherit, should be desirous to do so; and totally forgetting that by sinking his funded property, *he loses* the whole benefit of the rise on capital, and *his country* in reality *gains nothing* but the trifling increase yearly by which his dividend exceeds his tax.

Sect. 18.—If a tenant for life, or other persons, purchase under preference, not having the fee simple, the remainder-man or reversioner coming into possession, may claim an assignment of the land-tax, on transferring the like amount of consols or reduced 3 per cent. annuities; and if the executors, administrators, or assigns of the tenant for life refuse to make the assignment, the Court of Chancery may compel them, and award costs.

Of any tenant for life who should purchase under this clause, it might be fairly inferred that he was entirely unacquainted with the nature of the property he bought; of the clause under which he ventured to purchase; of the power his own issue or the remainder-man had over it; and, lastly, of the mode of proceeding of the Court, which is by this clause authorized to compel his *executors, administrators, or assigns*, to assign this, his supposed purchase, to the persons authorized by this clause to demand the assignment. In all matters of property, whether of a real or personal nature, the chief excellencies, never to be lost sight of, are, its certainty and quiet enjoyment, its uncontrolled dominion, and its easy disposition, at all times and under all circumstances. Will a tenant for life have any one of those comforts in the property acquired under this clause? It may be said, in most cases; the next taker will be the purchaser's own child; the last person in the world one would wish to have this dealing with. The tenant for life may not be able, or may not choose to sink or merge the land-tax on his settled property, *by exonerating his estate*, but may wish to keep it on foot, and dispose of it *either by sale in his lifetime, or by will*, for some of the younger branches of his family. The first he cannot do. For who would purchase subject to redemption?

And

And the latter is equally impracticable, unless it be made a *condition*, upon the compliance with which, the tenant in tail is to take some other property, which, in the event of non-compliance, is directed to go over to another person.

Sect. 19.—In order to execute a redemption by corporations, and *trustees for public purposes*, they are enabled to *sell, mortgage, or grant a rent-charge*.

In some cases there may be detached property, which, notwithstanding the complex mode after directed for sale, may sell tolerably. How far it will be desirable to part with property which may hereafter be improved, to acquire that, which admits of no increase or improvement, well deserves the attention of those concerned, especially of *trustees for charitable purposes*. As to the power given to mortgage by deeds duly enrolled, &c. to ease the property of one incumbrance, and to affect it by another, in its nature and consequence much more objectionable; it seems like enabling a person by *law* to commit suicide, without enacting an exemption from the possibility of the stake being driven through his body. And with respect to the power to create and continue one rent-charge in lieu of another, viz. the land-tax, it needs no comment!

Sect.

Sect. 20.—Gives the same powers as contained in the last clause, to tenants for life, committees, guardians, executors, &c.

If they are not satisfied with the trouble they have in their respective situations, they will probably receive some satisfactory information (if they mean well to those for whom *they are*, or *may eventually be*, concerned) from a perusal of the observations on the preceding clauses. In this clause a condition is annexed, that to every sale, mortgage, or grant, under either of the foregoing clauses, it is required that two of the commissioners (not of the district, but for sale) shall be parties. This is a wise and prudent precaution, to prevent unfair transactions under the act; the only inconvenience is, that it increases the trouble and the expense. It is equally incumbent on a purchaser, mortgagee, or grantee, to attend to the exact requisites of the act, for otherwise the validity of their title, or their security, will be liable to be disputed!

Sect. 21.—If the authority of a Court is required for sale, the commissioners need not be parties.

Sect. 22.—Tenants in tail may convey by deed enrolled, and the same shall be tantamount to a fine or recovery.

This is perfectly proper, and will tend to facilitate the purchase of land tax, where tenants

in tail are desirous to do so. It is however to be observed, that the clause does not express whether the tenant in tail must *be in actual possession*, nor whether, by *joining with the tenant for life, they together can bar the remainder-man*.

Sect. 23.—Enacts, that every sale, mortgage, or grant, shall be valid, after enrolment and registering, as *before* mentioned; and after payment of the purchase or mortgage money into the Bank, as *after* directed (by *clause* 30), and gives to grantees of rent-charges, the same remedies as landlords have on rents reserved by leases.

This clause serves to mark, most incontestably, the necessity of the attention recommended to all parties, whether as venders or purchasers.

Sect. 24.—All sales to be by public auction before two commissioners, after notice, &c.

This is a wise and just direction; but there is a considerable degree of *risque* whether property will sell well, when, from *the nature of the sale*, it is known *that it is to* (and therefore the conjecture in men's minds will be, that *it must*) *be sold* for the particular purpose.

Sect. 25.—Wisely restricts tenants for life, (where fines are taken) from selling without the consent of the reversioner.

Sect. 26, 27, and 28.—These clauses relate, exclusively, to Scotland. The proprietors
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of estates there, whether heirs of entail in possession, tutors, curators, &c. may probably find themselves interested in the foregoing remarks equally with persons possessing property in England.

Notice being given in the House of an intention to bring in a bill to amend the act for sale of land-tax, so far as it relates to Scotland, it is highly incumbent on the possessors of funded property in that part of the kingdom to wait and consider it when passed.

Sect. 29—Directs, that before any sale, mortgage, or grant shall be made by virtue of this act, persons shall produce to the commissioners for sale, an account in writing, of the quantity and duration of their estates; and if only tenant for life, then the name of the persons next entitled, and also the particulars of any mortgages, charges, or incumbrances on the premises, and their priority, and the names of the persons entitled thereto.

Although this clause is necessary, yet it is an additional proof of the difficulties thrown upon persons liable, who do not possess funded property sufficient for the purpose of the act, in as much as they must comply with these various requisites, before they can be enabled to accomplish their desires.

Sect. 30.—This is a very difficult, a very important, and a very interesting clause indeed. It respects the *payment of all money* to arise by any sale, mortgage, or grant, and it contains three material *provisoes* or *conditions*. It directs that all sums arising by sale, mortgage, or grant, under the act, shall be paid into the Bank of England, to the account of the commissioners for reduction of the national debt, who shall invest *the same* in the purchase of the 3 per cents (the receipts of the cashiers to be a discharge); and this shall be as effectual as if stock had been originally transferred. *Provided* that no more money be raised by mortgage or rent-charge, than what shall appear to the commissioners sufficient for the consideration of the redemption, (it does not extend to the variety of expenses attending the sale, &c. &c.) *Provided*, secondly, that no other or greater quantity of estate shall be sold, than what shall appear to the commissioners (who are sworn faithfully to execute the trusts of this act) *eligible and necessary* to be sold for the purposes of the act. And *provided*, thirdly, that the commissioners shall not certify their consent to any sale, without an *estimate in writing upon oath* of the value of the part of the estate proposed to be sold, that the sale will not materially injure the residue of the estate, and that it is *proper* to be sold for the purposes of the act.

The restrictions or conditions in this clause are such, that no one, who is conversant with mankind, with the probability of their abuse of power over
property

property for particular purposes; and with the nature of *real estate*, can hesitate, to pronounce judicious and proper; but surely the commissioners, and the persons forming the estimate, ought to be thoroughly acquainted with the whole of the property of the person applying, before they can with a clear judgment, and a safe and quiet conscience, perform the respective offices required of them by this weighty clause. Admitting, however, for a moment that every requisite is attended to and complied with, then let us ask, *cui bono*? Is there any thing consequent to this plan that can justify any man, much more a tenant for life, or other of limited estate, for venturing into such a labyrinth of inconvenience or expense?

Sect. 31—Enables reversioners, remaindermen, or their guardians or trustees, who shall think themselves aggrieved by any sale or mortgage, *before the estate is actually conveyed*, to present a petition to the High Court of Chancery for the suspension.

This clause seems specious, but the grievance to remainder-men may not be ascertained till the sale is completed, or, if it be, this clause would deter any man from purchasing, as he is likely to be thus harassed after the sale, and before the estate is actually conveyed to him, notwithstanding the fortified precautions in the preceding clauses of the act.

Sect.

Sect. 32—Directs that if there shall, notwithstanding the antecedent clauses, be a surplus of stock purchased with the money arising from sale of any settled estate, such surplus shall, if in England, be invested in the name of the accountant general of the Court of Chancery, and at a convenient time, under the approbation of the court, applied in discharge of any debt affecting the estate, or in the purchase of other land, which shall be settled to the like uses, or to be transferred to the commissioners for reduction of the national debt, to be laid out, with the approbation of the court, *in the purchase of any land-tax charged on any other person's estates.*

This to a common understanding appears truly curious. It seems as if it were the general opinion, that it is worth while to get rid of the land-tax (though in other respects at a disadvantage), because it is *an incumbrance*. But to go through all the required forms of selling an estate, to run the gauntlet through the Court of Chancery with the purchase-money, to be at the expense and trouble of a new settlement with the property to be acquired with the surplus, and that property to be an *unimprovable one*, the land-tax (an incumbrance) on another man's estate; seems to be such a delicate refinement in the manœuvering of property, that one would hope, for the sake of the present proprietor, and of the future taker, would be known to few, and practised by none.

Sect. 33—Directs the application of stock
arising

arising from sale of property in Scotland, nearly in the same manner, by the direction of the Court of Session.

Sect. 34—Enacts that the surplus, if under 200*l.* stock, may be transferred to a trustee, and applied in any manner directed by the two antecedent clauses, without the direction of the Courts of Chancery or Session.

The operation of this clause, though apparently simple and beneficial, will not be unattended with considerable trouble and expense to the party interested, and the rather, as the sum is so trifling as to be inadequate to such expense, and which, in many respects, of purchasing lands particularly, is equal, whether on a trivial, or a considerable conveyance.

Sect. 35—Precludes mortgagees under this act from having a preference of former mortgagees on the estate; and it enables those former mortgagees, to advance money required for the redemption of the land-tax, *in preference to all other persons.*

Does it mean in preference to the mortgagor or owner of the estate?

Sect. 36—Discharges remainder-men or reversioners from being subject to more than one year's interest, on any incumbrance brought on the settled estate, by virtue of this act.

A remainder-man or reversioner is certainly *not benefited*, by the being compelled by the agreement of his antecedent taker under the privilege
of

of this act, to pay one tenth more than the land-tax to which the estate was subject originally ; *but he may be injured*, by the change of the *land-tax* for an incumbrance by mortgage or rent-charge, the former being constantly received by the collector, and never suffered to be in arrear : whereas by negligence or accident, or deaths of parties, the latter may be in arrear, and the remainderman involved in a suit with the incumbrancer, notwithstanding this clause.

Sect. 37.—Any person not having an estate of inheritance who shall, with his own property, redeem and declare his option as a purchaser, shall hold the land-tax as a rent-charge, and liable to redemption, as in clause 18 ; and when he shall not have declared his option, whereby the land-tax becomes exonerated, the estate shall be charged with the amount of the 3 per cents, which shall have been transferred, as the consideration for the land-tax.

If a tenant for life at this moment redeems 100*l.* a year land-tax, for which he transfers 110*l.* per annum, being 3666*l.* 13*s.* 4*d.* in the consols or reduced, which will now cost, or is worth no more to him, than 1833*l.* 6*s.* 8*d.* reckoning the funds at 50, yet in case of a peace, or by any unexpected event, if the consols should rise to 75, which is not an unreasonable supposition, by the death of the tenant for life, the remainderman enters, and wishes to redeem the land-tax
(which

(which but for this act he would have found as the outgoing under the deed or will which gave him the estate), he must pay the sum of 2,750*l.* in lieu of the sum the tenant for life would now pay, or transfer stock equivalent thereto. This, by events, or even a *greater inequality*, may happen in a very quick period. Surely this gross injustice could not have been foreseen by the legislature. It is an inseparable consequence of compelling, in this moment of funded weight and distress, a consideration in stock instead of money.

Sect. 38—Restrains any sale or mortgage, until one month's notice to the commissioners, and empowers the person next entitled, to advance the money to buy the stock required; and who is in all cases, to have a month's notice of sale or mortgage, and shall be entitled in that case to stand in the place of the person who otherwise would have had the preference.

This would obviate the pressure of the immediately preceding clause, if we suppose the next remainder-man able to advance the money; but how few instances are there in the kingdom of next takers under settlements, who are so fortunate as to possess personal property in possession, which they can spare for the purpose!

Sections 39 and 40—Enable trustees, with proper consents, to invest trust property directed to

be laid out in land, or in the funds, in the redemption or in the purchase of land-tax.

Sect. 41.—Enables persons (otherwise disabled to do so) to cut timber, with the approbation of the Court of Chancery (or Session in Scotland), and to redeem or purchase land-tax. The surplus, if any, to be managed as directed for the surplus under clause 32, &c.

This clause is silent as to the expense, attending the application to the court, the management of surplus, &c.

Sect. 42.—Copyhold estates may be enfranchised, and the money applied for the purpose of redemption or purchase.

Sect. 43.—Persons may give money, by will or otherwise, to be applied for the purpose, notwithstanding the statute of mortmain.

Sect. 44.—Enables parishes entitled to lands, for the benefit of their poor, or for the repairs of their churches, to redeem out of their poor or church rate, under special notice in their churches for two Sundays, and with the approbation of two justices.

The importance of this clause is clearly manifested, by the very proper and guarded requisites contained in it. It does not mention the vestry of any parish, but it must be presumed, by *the parish*, is meant, the inhabitants assembled in vestry, held pursuant to the notices in the church.

Sections 45 to 63 inclusive.—These clauses relate to the redemption or purchase of the land-

land-tax, on lands or other revenues of the Crown, within the survey of the Exchequer, or within the survey or receipt of the offices of the dutchy of Cornwall, regulated by reference to the preceding clauses in the act; and enable his Majesty and the Surveyor General of the Crown, the Lords of the Treasury, and the Chancellor of the dutchy of Lancaster, to execute various powers, and to do various acts, to complete the purposes of redemption and sale of the tax on Crown and Dutchy lands and revenues. Particular forms of certificates and contracts are contained in schedules to the act.

These clauses deserve very minute attention from every person meaning to act, or to buy under them; but from their separate nature, as to the property contained in them, do not stand in need of any particular comments, otherwise than as they will be found under those made on the preceding clauses.

Sect. 64—Enables the governors of Queen Ann's bounty, to redeem the land-tax on their livings.

It will deserve their deliberate consideration, how far they will avail themselves of this privilege, by deciding, whether purchasing a rent-charge, which cannot be improved, by paying an increased annual sum, and precluding themselves the benefit of future advantage, by the increase on the capital of the stock, is advisable, (agree-

ably to the principles of their institution;) in preference to the purchase of lands or of tithes—now the most improvable and improving property, perhaps, in this kingdom.

Sect. 65—Enables governors of hospitals, and other charitable institutions to redeem.

This clause, making it lawful for them so to do, may be proper to be inserted in an act of this kind; but the governors can hardly be justified in acting under it, unless, upon mature investigation, they are convinced, that the terms of this purchase are such as to make it the most advantageous method of laying out the money entrusted to them for charitable purposes.

Sect. 66—Enables persons whose land-tax shall not exceed 25*s.* by deed (registered gratis, as after directed) to appoint any person or persons to be a trustee or trustees, who is to obtain the respective certificates, and to contract for the redemption, *in his or their own name in one contract*—Provided the trustee produces to the commissioners, the deed of trust, and such affidavits from the persons empowering him, of their right of preference and advancement of the money—Provided that this clause shall not authorize any sale, mortgage, or grant of rent-charge.

Sect. 67.—The trust-deed is exempted from stamp-duty, as is also the assignment to each person.

On a first perusal of these clauses, they seem

calculated to ease the purchasers. The *consequences* do not appear to have been in the contemplation of the framer of the act; the deed itself appointing, and the assignments under it from the trustee, to each person who shall empower him, are exempt from stamp-duty; the deed which may become hereafter necessary, respecting each separate small quantity, will be liable to the stamp-duty. One would suppose that the *idea* giving rise to this *authority*, must have been, that a land-tax under 25s. (and there are many thousands in the kingdom not half the sum) is too inconsiderable to bear the expense: but must not a title be made to it in future? and must not each separate party shew the whole circumstances attending this curious contrivance, making the assignment from the trustee, the ground of his title, and shew precisely that his (the trustee's) *particular land-tax* on his *particular property* is either exonerated or kept on foot? In short, do not the observations already made on preceding clauses, apply with equal or greater force and propriety to the ten shillings a year, as to ten pounds or an hundred?

————æquo pulsat pede

Pauperum tabernas regumque turres. HOR.

Sect. 68—Directs the commissioners, after the 25th March 1799, to put up to sale, as the commissioners of the Treasury shall direct, the land tax remaining unfold, or to contract

tract with any persons for the same, in the mode therein prescribed, with two express conditions subjoined, viz. *one* directing that every such contract shall contain a clause, enabling the persons entitled to the hereditaments whereon such land-tax is chargeable, to redeem the same; *the other* declaring, that until such redemption, the premises shall be *subject to a new assessment of the said land-tax* from year to year, by an equal rate, without any power in the purchaser to exonerate the same, or to fix the rate of land-tax charged thereon.

A very prevalent motive with many proprietors, to incline them to purchase, seems to be, a dread lest any other person should buy the land-tax charged upon their property. In that case, what disadvantage will accrue to the owner of the estate? It is not easy to discern any. It would be an easy task, from a view of the different parts of this act, to demonstrate the numerous inconveniences, which the purchaser will be subject to, did not the clause itself render it unnecessary; for if the conditions in it are not sufficient to deter him from venturing to purchase, the *redeemable* and *fluctuating* nature of the property he will acquire, will sufficiently recompense him for his boldness.

Sect. 69.—In case persons entitled to preference, *shall give notice* that they shall not claim such preference, commissioners may contract with other persons.

Sect.

Sect. 70.—Enacts that in such last-mentioned contract, the consideration shall be so much stock, as in its dividend will yield an amount exceeding the land-tax, by *one-fifth* part thereof, and to be transferred within one year from the time of the contract, by four instalments.

It is much easier to suppose this clause was intended as a *stimulus* to the landholder, than to imagine that any person, unconnected with the property out of which the land-tax issues, could be so enamoured of it, as to purchase under such terms.

Sect. 71.—After March 1799, schedules of the land-tax unfold are to be made by the commissioners for the affairs of taxes, and which are to be advertised under the directions of the commissioners of the Treasury, in order that all persons desirous of purchasing, may receive the necessary information.

Sect. 72.—Contains full directions how the stranger meaning to purchase, is to proceed, as to delivery of a schedule by him, obtaining the certificate thereon, by the commissioners of land-tax for the district, after the contract by the commissioners of the county for sale, the Bank certificate, &c.

Sect. 73.—Whenever any land-tax shall be sold by auction under the act, contracts may be entered into between the commissioners, and the highest bidder, according to the *directions of the act*.

In

In a preceding clause (68) the directions of the commissioners of the Treasury, are made necessary to a sale by auction, and the latter words of the 73d clause one would imagine have reference thereto. Be this however as it may, whenever the period for these public or private sales arrives, the clauses authorizing them, the conditions expressly imposed, and the directions of the act which are to be pursued, will demand the cool and deliberate attention of an intended purchaser, when he will probably be convinced, that he is as likely as the commissioners, "to require the advice and assistance, or the opinion of any counsel learned in the law, being a barrister of five years standing at the least*."

Sect. 74—Directs that the whole land-tax of any parish must be certified by the commissioners, so long as any part remains payable to his Majesty, or to any purchaser, and that all such hereditaments not exonerated, shall continue subject to a new assessment yearly, by an equal rate, according to the annual value thereof, not exceeding four shillings in the pound; and that such part of the said land-tax which shall remain payable as aforesaid in every parish or place, shall be raised in the same manner as if the premises charged with the land-tax, so remaining payable as aforesaid, formed an entire parish or place, and according to such rules and directions as

* Vid. infra, sect. 121,

are prescribed by an act of Parliament respecting the quota of each parish; and it is thereby provided, that the collectors shall return to the receiver-general for the county, the amount of the land-tax, which shall have been redeemed in each parish or place, and from the payment of which such parish shall have been exonerated.

It has been thought advisable to abstract this clause fully, it being important, in as much as to the timid and the ignorant it operates *in terrorem*. Every man conversant with the nature and constant distribution of the land-tax, well knows that the practice has uniformly been, to continue the division of the quotas of the land-tax to counties, hundreds, districts, parishes, and places, without alteration; the *quota* of *each particular parish* or place, has been always considered to have been liable to an equality *pro rata* between the proprietors therein; and the words of the land-tax act are, to assess the quota by an equal pound rate on all lands, &c. In some parishes, *variations* have been occasionally made in consequence of the diminution in value, or of the improvement of property; but the assessors of the land-tax, different from all others, not being sworn, (*the laudable attempt to insert the oath about two sessions since in the act having been rejected in Parliament,*) and many difficulties opposing a fair and equal assessment, the same hath not been in many places accomplished: in truth, a

gross inequality frequently occurs in the same parish ; and it is the power therefore given to proprietors, to purchase under this year's assessment, which constitutes a well-founded objection to the measure. It was very liberally stated in Parliament a few weeks ago, by a member of large property in different counties, that he would decline purchasing, since, by doing so, under a *high rate*, he should injure his family, and under a *low one*, he should act injuriously by his co-proprietors, who in the same parish, are rated higher. The person who framed this clause appears to have been fully aware of this, and, to obviate the injustice and inequality in future, directs a new yearly assessment, *not exceeding four shillings in the pound*, to be made by an *equal rate*. This has been raised by persons, not duly weighing the subject, into a *fear*, that if they do not purchase, their land-tax would be raised to four shillings in the pound upon the rack-rent ; not observing, or rather not comprehending, that the clause only directs, "*such part of the said land-tax which shall remain payable in any parish, shall be raised,*" &c. as if the lands remaining charged, formed an *entire parish*, and by the same rules, &c. as by the act are prescribed with respect to the *quota of each parish*. Upon this point, it becomes necessary to recur to the first clause of this act, which renders the *several and respective sums* charged on the respective

tive counties, ridings, &c. *perpetual*. These observations, it is apprehended, will carry conviction to every man's mind that his land-tax cannot be raised otherwise than as it may be varied equally with other lands in the parish, *in payment of such parts of the land-tax thereof* as may remain unfold. It is unnecessary to pursue the theme, or enlarge on the unexampled injustice which would follow, if the property of those in a parish, who are *not* enabled to purchase, should be raised *beyond their proportion of the parish quota*, after having suffered the hardship of seeing other proprietors, more lightly rated, preclude any future rise, because they happen to be possessed of personal property to enable them to avail themselves of the terms of the act empowering the sale of their proportion, which would have been increased, had justice and a fair equality been the guide of the assessment of the quota for the year 1798. There is a very peculiar hardship in passing this act at this period, in as much as it is almost morally impossible for a man, not having money, to buy the necessary stock to redeem, to accomplish his purpose; and to those who would enter into a contract without being possessed of funded property, running the risk of the probable alteration of the funds during the sixteen instalments allowed, one might with propriety say

Quos Deus vult perdere prius dementat.

It has been well suggested at several land-tax meetings, that upon the future assessment of the remainder of the parish quota upon the lands remaining chargeable, the probability is, that on an equal rate being made, few, if any, of the proprietors would pay more, many considerably less, than they are now actually assessed; and therefore that in this point of view, a present hasty redeemer or purchaser, would buy the *perpetuity* of what he had no right to contribute, and even by his conduct heedlessly engage to pay an additional yearly sum on that overplus. This event being evidently foreseen, is provided for by the subsequent part of this act, in the 82d clause.

Sect. 75.—Directs that contracts shall be registered within four months, and the officer with whom they are to be registered is to make out three duplicates thereof, *one* for the receiver-general of the county, *another* for the commissioners of the land-tax of the district, and *the third* for the remembrancer's office in the Exchequer,

Sect. 76.—Copies of those registers are made evidence.

When these two clauses are properly considered, they will be found to coincide as to the propriety of the observations already made with regard to *the accuracy of description* of the property, for of the identity of the proprietor, or the amount of the sum assessed, no question can arise;

arise; and such cases wherein these copies of registers will be adduced will most likely happen respecting the ascertainment of the property, whereon the tax is charged and the exoneration whereof is to be supported.

Sect. 77—Enacts that the receiver-general, when any land-tax shall remain chargeable after the same shall have been redeemed or purchased, shall, *before* such land-tax shall become due, viz. on the 20th September and the 20th March, upon demand and production of the contract, when required, pay the land-tax so purchased, free of all charges, out of *any money in his hands arising from the land-tax*; or if he has not sufficient, then out of other money in his hands.

A comparison between this mode of receipt and that of the dividends at the Bank, either for its convenience or its certainty, would appear odious, and is therefore avoided.

Sect. 78—Enables a purchaser, to assign by the form in the schedule to the act, to be registered with the proper officer, and explains the mode to be pursued by affidavit, of persons becoming entitled by the rights of marriage, or by production of testamentary papers, in cases of executors and others entitled thereunder, and then has, in its conclusion, an express proviso respecting the declaration of option.

The

The forms required by this clause deserve the attention of purchasers, but more particularly of assignees, and of executors, *becoming entitled*. It does not appear by the act whether the assignments are to be liable to, or to be exempted from stamp-duty; it is therefore to be presumed all such assignments will be liable, as the exemptions in clause 67, are expressly confined to the assignments by trustees appointed under clause 66.

Sect. 79.—If a purchaser dies, before he shall have transferred *all his instalments* of stock, this clause directs the manner in which his personal representatives shall make good the future instalments, out of his assets, if he leave sufficient; if not, they are empowered to sell or assign the contract, in the form prescribed by the act.

In addition to what has been already observed, an attention to this clause, which, as far as it extends, is perfectly proper, will satisfy every prudent man of the risque he runs, and the inconvenience he may bring upon his family by *contracting*, without having the whole stock ready to transfer. The clause is silent as to the procedure between the Crown, and the individual dying without completing his instalments, in case he cannot procure a purchaser, and which he may find much difficulty in doing; as in the interval the price of the funds
may

may have risen very considerably, and a stranger may not feel that inducement, which the original contractor felt.

Sect. 80—Authorizes, in all cases under the preceding clause, the courts of Exchequer in England and Scotland to enlarge the time for making good the instalments, as in cases of forfeiture by the default of the party under the subsequent clauses 96 and 97.

Sect. 81—Enables the land-tax to be continued and kept on foot, where persons shall have redeemed by sale, mortgage, or grant of rent-charge under this act, and shall have declared their option for that purpose.

It can scarcely be supposed that the owners of estates would dismantle them by selling a part, or encumber them by mortgage or rent-charge, unless for the express purpose of exonerating their property from the continuance of the land-tax. How otherwise could we reconcile such conduct? To create a new incumbrance, and keep on foot the former one!

Sect. 82.—If the receiver-general shall neglect or refuse to pay the purchaser, it shall be then lawful for him to give notice to the occupier, of the default, who is to pay the same on demand, unless he shall have previously paid the collector; or unless the yearly value of the estate charged, shall be reduced in value, in which case the owner is never to exceed 4s. in the pound; or unless the land-tax charged on such hereditaments “ shall
“ by

“ by ANY ABATEMENT THEREOF, be reduced
 “ to a sum less than the sum charged thereon
 “ at the time of the purchase, in which case
 “ the occupier is not liable to pay more than
 “ the sum charged thereon, at the time of the
 “ demand made.” And provision is made
 for the indemnity or reimbursement, to the
 purchaser of the diminution by abatement of
 the sum charged at the time he shall have
 purchased, upon his application to the com-
 missioners for the reduction of the national
 debt, for part of the stock originally trans-
 ferred; or to the receiver-general, for the de-
 ficiency under a subsequent clause (85), at
 the option of the purchaser.

The probability of future rise, or future diminu-
 tion on the land-tax not redeemed by the proprie-
 tors, depends in some measure on local circum-
 stances. Few persons are equal to the task of
 weighing this point properly; they must be mi-
 nutely acquainted with the present state of the
 property of their parish, the equality of the rate,
 of the quota within it, and the alterations which
 have happened, or may probably happen, in the
 property. To aid this inquiry, may we not ask,
 Have the alterations in the land-tax in any place,
 kept pace with the improvements therein? And
 is it, at this era of useful, elegant, and skilful im-
 provements, probable, that the quota of land-tax
 will not in almost every place *allow of a diminu-*
tion, instead of calling for an increase of rate, in
 the respective parishes? The *fluctuating nature*
 before

before alluded to in the course of these remarks is strongly illustrated by the indemnity provided by this clause.

Sect. 83.—Imposes a penalty, with great propriety, of 100*l.* on any receiver-general, who (having sufficient money in his hands arisen out of the land-tax,) shall *wilfully* neglect or refuse payment to the purchaser.

By the 77th clause we have seen, that payment is to be made to the purchaser each half year, *before* the land-tax becomes due. It has never been the custom for the owners of estates, or the occupiers, to pay in advance; on the contrary, a very considerable, and a very necessary indulgence, hath hitherto been allowed. In many places it is collected but once a year, and in truth it very frequently happens that *landlords* receive their rents, but once a year.

Sect. 84.—The receiver-general is authorized very properly, to pay the person appearing by the register to be entitled, notwithstanding any defect of title in the person receiving the same.

This clause will necessarily call the attention of every purchaser of land-tax, to the requisites on the assignment being made to him.

Sect. 85.—The receiver-general is authorized to pay the full land-tax to a purchaser, notwithstanding any abatement therein subsequent to the purchase, if the purchaser shall

not have received back a proportion of the capital stock in lieu of such abatement.

Of this *negative*, the purchaser must produce a satisfactory proof to the receiver-general, or those in his office, whose province it may happen to be to receive his application. It occurs to the author, that, without obtaining in the first instance from the parish collector of the land-tax, a certificate of the abatement in the sum, and afterwards, upon producing the same to the commissioners for the reduction of the national debt, a further certificate or document from them, that he has not received back a proportion of the capital stock, the purchaser cannot reasonably expect the relief he seeks. Certain forms or precedents in such cases, will of course be adopted, in like manner as the original certificates in the schedule to the act. It will be wise and necessary that they should be, because this inconvenience may not only arise to purchasers in every part of the kingdom, but *to the same purchaser frequently*; for a trivial annual alteration in the assessment, will occasion a fractional variation, if not a material one, in the assessed sum purchased.

Sect. 86—Gives a similar optional remedy, by way of indemnity for abatement to purchasers, not entitled to preference.

Sect. 87—Directs the collector to pay them, if the receiver-general shall make default.

Persons so circumstanced seem so clearly to be included

included in the preceding clause (82), that these clauses appear to be surplusage, or, at best, to have been inserted *ex abundanti cautela*.

Sect. 88—Empowers the collectors of land-tax, to pay the *abatement*, in case the receiver-general shall neglect or refuse to do so.

Though it may happen that a clause does not require any comment from the author, yet he deems it necessary to notice it, (as briefly as possible,) that the reader may have the more perfect comprehension of the act, and of the observations.

Sect. 89—Authorizes the collectors of the land-tax to pay the purchaser the full amount of the land-tax purchased; or, in case of *abatement*, the amount of such *abatement*, unless he shall have paid the whole of his collection to the receiver-general, at the time of the demand;—directs his receipt to be a discharge to the collector, and gives the purchaser the same remedies against the collector, as the receiver-general, or the commissioners would have had in case of his neglect or default.

Sect. 90—Imposes a penalty of 20*l.* on the collector who (having sufficient money in his hands) shall make default of payment, pursuant to the directions of the preceding clauses.

It will be well for the purchaser under the *two-fold* application to the receiver-general, and the collector, if he shall ultimately find himself in the tranquil and easy receipt of his purchase; but by

what method is the collector to know, whether the purchaser has or has not received, his tax from the receiver-general, and *vice versa*?

Sect. 91.—Enacts that purchasers by instalments, shall pay to the cashiers of the Bank upon the second and every subsequent instalment, *a sum of money by way of interest*, equal to the amount of the land-tax, in the manner therein expressed.

It is not intended to dispute the justice of this requisition. The framers of the clause, in calling for this pittance of interest, must have entirely overlooked the immense disadvantage and loss, which may accrue to the purchaser, from the rise of the funded property during his instalments. If the observations suggested in the course of this inquiry, to persons contracting, and meaning to pay by instalments, have not been sufficient to excite their attention, neither this clause, nor any remark thereon, can be expected to produce that effect.

Sect. 92.—Land-tax purchased by persons not entitled to preference, shall not “*be subject to redemption*,” until the period when the dividends arising from the purchase of stock by the commissioners for the reduction of the national debt, in the manner therein expressed shall cease to accumulate.

This clause, one would imagine, is not accurately worded. The tax so purchased is from the

first moment *subject to redemption*. It should rather have been expressed—*shall not be redeemed*, until the period thereby referred to, and which being so very *indefinite*, must undoubtedly be deemed an uncomfortable clog upon the purchaser.

Sect. 93.—After that *indefinite period* shall arrive, proprietors of the lands charged with land-tax purchased under the act shall, during three years, be entitled to redeem *in order of preference*, and contract in the same manner as they might under the 12th and 13th clauses, giving notice, and pursuing the methods hereby directed.

Upon what supposed principle of benefit to the landholder, can this distant redemption be reserved to him? If any further period be requisite to be allowed, than that which is ascertained by the act (and enlarged by the amended one), would it not have been sufficient for him, and evidently more beneficial to the purchaser, to have fixed a short and precise period of five years, or some other given number, thereby assimilating the privilege to the statutes of limitation, non-claim, &c.?

Sect. 94.—Regulates the mode by which the commissioners for the reduction of the national debt, shall transfer to the original purchaser, the stock by him advanced, as the consideration, or at his option, pay him a sum equal to the value at the time it shall have been by him transferred in the first instance.

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This option is fair and just, and appears to be the only counterpoise for the precarious nature of his purchase, although it in no degree obviates the inconvenience of the uncertain period of his tenure.

Sect. 95—Enacts that in such cases of redemption upon the original purchasers, the tax shall be thereupon exonerated and freed from further assessments.

As the system had been already so intricate, it would not have been improper to have allowed to *the person redeeming*, the same option he would have had in case of exercising originally, his right of preference either to exonerate, or *keep his tax on foot*, as it must be by *the purchaser*, (as has been shewn before,) if no redemption takes place upon him.

Sect. 96—Directs the line to be observed, and imposes a forfeiture of the first instalment, in cases of default by persons applying to redeem the original purchases under the preceding sections.

Sect. 97—Empowers courts of Exchequer in England and Scotland, upon applications of persons having incurred the penalty, to enlarge the time for the subsequent instalments.

It cannot be denied, but that cases may occur deserving the attention of a Court of Equity; but, though occasionally the remedy may be desirable, yet it tends to cast to a greater distance that period
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of undisturbed enjoyment, which it is conceived should have been the first object of the act to have created, in the almost innumerable rent-charges rendered perpetual by it.

Sect. 98—Authorizes the assignment of contract by indorsement on the original contract, if of *the whole*; and if of *a part* only of the tax purchased, then by indorsement on an *attested copy of such original*, and which are to be registered by the same methods as the original contract.

This is very judicious, and obviates the difficulty, which otherwise might have arisen, upon future subdivisions, or splitting of the land-tax purchased.

Sect. 99—Enacts that land-tax redeemed or purchased, shall be *personal* and not *real* estate (except where the same shall be discharged), or where other provisions are made by the act.

This clause is very brief and very plain. It is not now, nor will it be in future, less important to the purchaser, neither will it be on those accounts less extended from the nature of its operation. Men of the meanest capacities, and unread in the laws of their country, have a general knowledge of the difference between *real*, and *personal* property. Few of them, however, are qualified to discriminate the consequences, and legal distinctions of them separately; and a *more inconsiderable*

siderable number still, will be able to foresee or to trace the inconveniencies, which may result from this clause. As *personal* estate (and such must be the property acquired under this act by persons not entitled to preference,) it will be in the first instance liable to the *legacy duty*, which as *realty* it would not. In the hands of the purchaser, if he is by *will* desirous to distribute it, one may fairly infer, from the remarks which have been already made, that it will not be the most facile property for the purpose ; and if he *chuses to die intestate*, the various parts into which it may become divisible, under the statute of distribution, will render it very troublesome, if not vexatious, to all persons concerned ; whether they are to receive it, or to pay it ; or whether they are officially to distribute it, as the receiver-general, or the collector, in different cases. How ludicrous would it be, and yet it is possible it may happen almost immediately, that six or eight persons should apply at the receiver-general's office, for their respective portions of a half-yearly payment of some small sum, as 4*l.* or 5*l.* for instance ; and that is not a small sum, in a comprehensive view of the distribution of the land-tax. Those who are sanguine as to the propriety and practicability of this measure, may treat with derision such an instance as that alluded to ; but will they be so ignorant, as not to discern, or so hardy as to deny, the glaring inconvenience, trouble, and expense the proprietor

prietor of the estate must be put to, *in order to redeem under the 93d clause, in consequence of the property being made personal*, in case any intermediate owners, should have divided or have died intestate, leaving numerous *personal* representatives? This arises from the operation of the clause; and it is no answer or alleviation to assert, that therefore it should operate as a stimulus to proprietors. Persons who decline purchasing, because the terms are disadvantageous, are justified to themselves and their families; those *who have really not the ability*, are eventually hardly dealt by; and those who redeem, and chuse to keep on foot their land-tax, will entail on their property and on their descendants, inconveniencies which will not be easily obviated, and render this kind of property of little estimation. In a pamphlet published, evidently to urge the commissioners for sale, to endeavour to forward by their utmost exertion, the sale of the land-tax, and professedly by its title, to show the benefits likely to arise from the measure, this clause is abstracted (page 43;) but it does not appear to be followed by any comment or illustration whatever. See Observations upon the Act, in octavo, referred to in the preface.

Sect. 100—Provides, that upon a contract becoming void, *strangers* may, upon application to the court of Exchequer, stand in the place of the original contractor, and complete the purchase, subject to the redemption,

tion, to which other purchasers are made liable. And the next clause,

Sect. 101—Points out the conduct the commissioners for reducing the national debt, are to pursue, where the contract shall have become void, and three months shall have elapsed afterwards, without any applications being made to the court of Exchequer.

Sect. 102—Requires the governor and directors of the Bank to open “an account of the “sale of the land-tax,” and to receive and enter all monies in respect thereof accordingly.

Sect. 103—Enacts, that if in any future assessments, the land-tax, which shall continue, shall exceed 4s. in the pound, the same shall be subject to an abatement as therein directed.

The higher the present rate of land-tax, paid by a proprietor is, it is obviously a more considerable object to redeem, for two plain reasons, that his price must be higher both in capital of stock and dividend, and that he has a possibility of a larger abatement in future, by improvements and alterations, than one, who is now very low rated; but it is not easy to discern, for what purpose *this clause*, unconnected with those which precede or follow it, was inserted. It may not be uncandid to conclude, that it is *in terrorem*, and that a mind must be highly informed, to apprehend its tendency, and be weak in the extreme, to be impressed by it.

Sect.

Sect. 104—Directs the commissioners of the land-tax to apportion it, *where lands are now rated together*, and shall be hereafter separated, and continue liable to the tax purchased; and if one person shall be compelled to pay the whole, he shall recover his portion from the other.

The first part of this clause, should have directed the assessor, (whose duty and province it is,) not the commissioners, to apportion it; and it seems difficult to apprehend the case mentioned in the latter part; for by what law, can any one man be compelled, *after an apportionment of the tax*, to pay the portion of another? but if he can be so compelled, surely he does not stand in need of the privilege of demanding it, or of being authorized as a landlord, to recover it.

Sect. 105—Enacts, that when the whole of the land-tax, charged in any parish is *redeemed*, and *all the hereditaments exonerated*, all assessments shall cease!

It were impossible, in the event marked in this clause, that the most ingenious assessor could have made an assessment.

Sublata causa, tollitur effectus.

Sections 106 and 107—Direct that the interest or dividend of the stock, transferred to the commissioners under the act, shall cease to issue from the Exchequer, and shall become a part of the consolidated fund, but to revive

and be paid, whenever the commissioners shall transfer, to any person under the act.

Sect. 108.—Enacts, that certain duties on malt, sugar, and tobacco, shall expire Lady-day 1799, in order that they may be substituted as annual duties, in lieu of the land-tax made perpetual.

Sect. 109.—The produce of the land-tax after Lady-day 1799, to become part of the consolidated fund.

Sect. 110.—That no contract with the commissioners, nor any certificate or *receipt* given *under this act*, nor any assignment thereof, shall be liable to any stamp.

Certain receipts are in various cases necessary *under the act*, in the course of the proceedings, and particularly by instalments to complete purchases; and in certain instances, as in default of payment by the contractor, an assignment is authorized by the act. It is to be presumed this exemption from stamp-duty, is not meant to be *restrained to receipts* and assignments, in the first instance under the act, but to be extended to all future receipts, and assignments, which may be requisite in regard to the land-tax, purchased *in perpetuum*. It would have been very easy to have explained this intention, which from the purview of the act, and the words of the clause, is doubtful.

Sect. 111.—Authorizes notices to be left at the dwelling-houses, if the person is in Great Britain; if beyond the sea, then in the London Gazette.

Does not this latter part, militate with some of the preceding clauses, where limited periods are expressed, particularly in the instance of redemption on purchasers under sect. 93?

Sect. 112—Exempts from auction-duty, lands sold under the act.

Clauses of this nature are highly proper, and well calculated to induce persons to contract under the act; but the arrangement would have been more systematic, and more useful, if the different exemptions from duty, had been in one clause; or where different clauses are requisite, if they had followed each other.

Sect. 113—Authorizes the *Lords of the Treasury*, to issue any sum of money for *salaries to commissioners, clerks, and officers*, and for the incidental expenses of the act, as they shall from time to time think reasonable, with a *proviso*, that no greater sum shall be paid to the *commissioners specially to be appointed* under the act, than after the rate of 3*d.* in the pound on the *amount of the land-tax sold by them*, to be paid to them, in equal proportions, and directs the amount to be laid before Parliament.

This clause seems involved in considerable obscurity; in the first part, it speaks of salaries to *commissioners generally*, without distinguishing those for sale, and leaves the sums to be issued, at the discretion of the Treasury. It then afterwards restrains their Lordships from paying more than 3*d.*
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in the pound, to the *commissioners for sale* under the act, on the amount of the land-tax sold. Does it mean that all the *commissioners of the land-tax* are to be recompensed by the Treasury, and that the commissioners for sale, are to have the poundage of 3*d.* to be equally divided among them? Are they to be paid whether they attend or not? And upon what sum is the poundage to be? on the 20*s.* land-tax? or on the *pound* of the *stock* transferred for the purchase? or on the pound *sterling* of that capital? and if the latter, at what period is the value of the stock calculated? at the time of the transfer, or at the time of the payment to the commissioners, when the stock may be at 75*l.* instead of 50*l.* and when consequently the recompence would be half as much more? These are very trivial considerations, and will be easily adjusted between the Treasury, and the commissioners, whether specially appointed or not, as they are men of liberal and independent conduct in the country, who deserve highly of the state, and to whom a proper recompence for their trouble, care, and expenses (not so pitiful, as to be unworthy their acceptance, nor so considerable, as to create an influence or dependance), will be marked with the most laudable propriety.

Sect. 114—Empowers two commissioners of the national debt to execute this act.

Sect. 115—Declares that seats in parliament shall

shall not be vacated, by accepting commissions for sale under this act.

It having been the author's chief care, to avoid allusions to any *political* considerations under this act, he forbears any comment or observation on this clause.

Sections 116 and 117—Direct the mode of recovering penalties and forfeitures.

Sect. 118—Enacts that forgery of any contract, assignment, receipt, or certificate under the act, shall be felony without benefit of clergy.

Sect. 119—Limits actions to six months; enables defendants to plead the general issue; and gives treble costs against the plaintiff, in case of a nonsuit, in the usual manner.

Sect. 120—Empowers justices of the peace, who are commissioners of land-tax, but who are not selected as commissioners for sale, to be *commissioners of appeals* under this act.

Employments of every description under modern acts, have been heaped without any discrimination, (and almost without mercy,) upon the respectable office of *justice of the peace*. This clause is a strong proof of it. Omit to select him in the first instance as the cypher like commissioner of sale, and then appoint him to investigate the new questions, and to decide the squabbles, that may arise, and which in various instances, have already arisen, under this act.

Sect. 121.—When persons whose redemption or purchase-money, does not exceed 500*l.* 3 per cents, think themselves aggrieved by the
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the determination of the commissioners for sale, in the execution of any of the numerous purposes, required under this act, they are to appeal, to the persons appointed by the immediate antecedent clause, for hearing the same, at the next petty sessions, who are authorized to determine the question, call in the assistance of counsel, (being a barrister of five years standing, at the least) to award costs, and issue a warrant of distress, in respect thereof;—with an express proviso, that when the capital stock for the redemption or purchase, exceeds 500*l.* stock, appeals are to be made to the courts of Chancery, or Exchequer.

The tribunal of appeals in the first part of this clause, is injudicious in the extreme. The selection from the commissioners, under the fourth section of the act, has been already observed upon. It would seem odious, to impute to men, filling with honour and respectability the office of justice of the peace, any jealous, envious, or uncomfortable sensations, on some of their brethren, being appointed to the commission for sale, really in itself trivial, troublesome, and unimportant; but various may be the motives of uneasiness, on such an occasion.

———“ *Trifles*, light as air,

“ Are, to the jealous, confirmations strong

“ As proofs of holy writ.” SHAKESP.

And equally true is the assertion in *Horace*,

“ *Invidia* Siculi non invenere tyranni

“ *Majus tormentum.*”

To appoint therefore, even with the possibility
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of disgust, men not selected for sale, to decide at their petty sessions, questions, in which those who have been selected as commissioners for sale, are implicated, and when in such sessions, they in strictness cannot take a part, in all probability, may lead to disagreements and serious inconveniencies.

Where, as it has happened, out of five magistrates, also commissioners for land-tax in a district, three have been appointed commissioners for sale, is it not incongruous and uncomfortable that the remaining two, should have a power to control and invalidate their acts, more especially if in the minds of those two, there should be a bias from their having been passed over in the selection? The power given to them is very great; the expense to the parties, from the assistance of counsel, which the commissioners are authorized to call in, may be very considerable; and the *period within which appeals must be brought, does not appear to be limited.*

Appeals, however, to these commissioners, may frequently be decided without putting the parties to the least expense; but which cannot be in any case, if the consideration-money exceeds 500*l.* stock, as the party is then driven to apply to the courts of Chancery or of Exchequer; we are therefore led to think, that it would have been preferable, to have given the party, having cause to appeal, his option, to apply either to the

commissioners, or the courts of equity, whether the purchase was more or less than the 500*l.* 3 per cent. annuities.

Sect. 122—Is the last, and empowers variation, or repeal of the act during the session.

Act of 39 Geo. III. Chap. 8.

Is to enlarge the time limited by the act of the 38th for the redemption of the land-tax, and to explain and amend the same.

THE remarks already made, having been involuntarily extended, beyond the author's original wish or intention, he will, in commenting on the act of the 39th, endeavour to restrain himself as much as possible, avoiding all extraneous matter, and adhering strictly to the principles before explained.

Sections 1 and 2.—*The preamble recites, that it is expedient further provision should be made, for effectually carrying the act of the 38th into execution; and it therefore extends the time of preference of redemption, to persons in possession, from Christmas-day to Lady-day, and to persons in reversion, from Lady-day to Midsummer 1799.*

If, as is apprehended, there has been really a *tardiness*, in the proprietors of land, and that it arises, not so much from the pressure of the times,

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as from the requisition of the plan, that the redemption or purchase should be by stock, and not upon a fair number of years purchase, in money, and by instalments to meet the exigencies of individuals, it may yet be found, that the extension of the periods for three months, will be insufficient and ineffectual.

Sect. 3—Seems to infer that such an opinion has really dwelt in the minds of legislators; for it directs, that persons interested in hereditaments, may, after the 25th of June 1799, contract in the same manner as they might do before, if the land-tax shall not have been sold; and it also provides, that no land-tax shall be sold pursuant to the act, *after the 25th of June*, in case proprietors shall have given notice of their intention to redeem.

Whilst the consideration remains *stock*, and not *money*, the prolongation of the period may have the effect of deterring, instead of accelerating the redemption, by the intermediate rise of the funds; at all events it strongly militates with the preamble of the original act, as to strengthening and supporting public credit; because the necessary implication must be from these clauses, that both the effect, and the completion of the measure, are more distant, than was at first apprehended.

Sect. 4—Gives to persons contracting after the 25th of March, the power to make instalments of stock during four years, as in
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the original act; the first instalment on the first of August 1799.

But does not such a delay tend to increase the disease? Suppose a man *wise* enough to contract after the 25th of March, and happily for this country, a peace should happen, or be in prospect before the first of August, what *blessings* would it not bring with it to the person having contracted? How could he partake of the general joy? Where would he find relief? How could he unfetter himself from the entanglement of sixteen instalments, gradually rising, *Deo favente*, towards par?

Sect. 5.—If *incumbents* do not redeem, before the 25th of March, *patrons* may; but if the tax shall not be exonerated, the next succeeding incumbent, may demand an assignment, from *the representatives of his predecessor*, or from *the patron*, or his heirs or successors, as the case may be.

The authority to redeem upon the preceding incumbent may be correct; but why it should be extended to the patron and his representatives is not easy to discover. This is attempting a perpetuity of expense, trouble, and uneasiness, without advantage.

Sect. 6.—Empowers the sale, or mortgage, of settled estates in one county, to redeem the land-tax, on the other parts of the settled estates, though situated in another county.

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This authority is very proper; as to the propriety of *exercising* it, sufficient has been already written in the remarks on the original act.

Sections 7, 8, 9, and 10—Empower redemption for a consideration in *money*, (in lieu of transferring stock,) provided the land-tax *does not exceed 25l. per annum*, to be paid to the receiver-general of the county. Such consideration to be "*so much money as, according to the current price of stock,*" transmitted to the receiver-general, shall be sufficient *to purchase so much stock*, as will yield a dividend exceeding the land-tax to be redeemed by one *tenth* part thereof.—The 8th directs the cashiers of the Bank, to transmit the average prices of the 3 per cent. annuities, to the commissioners for the affairs of taxes, who shall publish the same in the London Gazette, and also transmit the same, to the receiver-general of the counties; which account so published and transmitted shall be sufficient authority, whereby the receiver-general may settle the sums to be paid as the consideration for the redemption.—The 9th gives the party so contracting, the option either to pay the whole in a week, according to the then current prices of stock, or by *sixteen instalments*, according *to the prices of stock transmitted, preceding the day on which the respective payments are to be made*: and in case of default, the person contracting to forfeit one sixteenth part of the consideration.—The 10th directs interest to be paid on each instalment, and that a separate

separate account shall be kept thereof, by receivers and collectors.

Pending this act, it was very generally reported, and in some places asserted by the commissioners, that a power would be given by it to enable persons to redeem or purchase for *money*; but can the operation of these clauses be so construed? where is the man whose imagination is sufficiently subtle, to form the distinction between *stock*, sufficient by the dividend, to pay one-tenth more than the tax, or *money* sufficient to buy *the same quantity of stock*, which will yield an *equal produce* by its dividend? If however the provisions in these clauses be necessary, why should they have been confined to sums not exceeding 25 *l.*? The circuit, trouble, and expense, in ascertaining the prices, transmitting the account, and then circulating it, are more obvious, than the advantages and accommodation, which will result either to the public, or to the individual. And the next,

Sect. 11—Fully proves this to be so, as it pursues this scheme of purchase, in its progress of returning the contracts, or *such part thereof*, by the commissioners for sale, to the receiver-general, as will enable him, to ascertain the amount of the stock to be purchased, which he is to transmit to the commissioners for the affairs of taxes; for the information of the Lords of the Treasury; who are to direct from time to time, money to be advanced to the commissioners for reduction of the national debt, sufficient for the purchase

purchase of so much stock, as shall be mentioned in such contracts, on the respective days mentioned therein, out of any monies in the hands of the respective receivers-general, or in the Exchequer, as they shall think fit; which sums so advanced, are to be replaced, out of the monies, to be repaid upon such contracts.

Without the imputation of asperity, may it not be alleged of such a system of intricacy,

“ Parturiunt montes——— !”

though it might be deemed indecent, to cite the remainder of the poet's thought.

Sect. 12—Authorizes persons, corporations, &c. selling lands to redeem the tax, to agree with the *purchaser* of the *land*, to pay by *instalments* into the Bank, provided the agreement, times, sums, &c. are inserted in the conveyance.

This is a new invention to facilitate the measure; but persons availing themselves of it, if they have the most distant conception, of the nature of conveyances so framed, may by their future experience, not be very grateful to the fabricators of this clause. To the ignorant and unwary, this ingenuity may operate as a lure; but those who are competent to the subject, will instantly discern the mischiefs, which may result from it.

The latter end of this clause, contains a proviso, that if *persons contracting die, before all the instalments are complete*, the future instalments, are to be made
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good, by the persons who, for the time being, shall be entitled to the hereditaments, and not from the assets of the persons so dying.

Special conditions ought to be classed, and annexed to the object, to which they relate; and upon that principle, little would one expect to find a proviso of this sort, at the end of this clause, much less should we have expected, to find one of such immense importance to the happiness of families, and the comforts of the proprietors. Suppose the person contracting, to have paid twelve or fourteen instalments previous to his death, in what situation will his representatives stand? How and against whom are they to recover? Is it meant that the person entitled to the lands, and who under this proviso is bound to pay the remaining instalments, shall hold the land-tax, without any remedy by the representatives of the persons who have paid the former instalments? It is conceived something must be intended by this *proviso*, in reference to the *purchase-deed* by instalments, but which is not disclosed by the language of it.

Sect. 13—Points out a remedy for one of the inconveniencies, predicted of this system of sale, and payment of purchase-money, by instalments; by giving *an entry* to venders, in case of default by the purchaser in the instalments, and the same remedy of raising and recovering the money unpaid, in like manner, as if the same had been secured by an actual mortgage.

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If it were to be supposed, that clauses to suit the agreements, or conjectures, of any private individual, could gain insertion into a general act, for great national purposes, one would search for such a clause, on this occasion. With persons possessed of common intelligence, such clauses as these, (clothed with the appearance of privilege, and furtherance,) are sufficient to create a pause, if not a rejection, by persons interested.

Sect. 14.—Where the purchase-money for lands sold is under 500*l.* the purchaser may pay it to the receiver-general; and if any surplus, the same is to be paid to a trustee, for the persons redeeming the tax.

Sect. 15.—Wherever the sum raised in any parish by the assessment of 1798, shall exceed or be less, than the quota of such parish, the commissioners of land-tax for the district, are required to settle the same upon complaint; and if less, to cause the deficiency to be assessed; and if it should exceed, to cause the excess, to be deducted and abated, as near as may be, according to the proportions in the original rate or assessment.

The land-tax assessments, are scarcely ever made on a less sum than the parish quota; they frequently exceed it, by some small sum, for the purpose of providing for deficiencies. In Bath and other places, where the land-tax, from rapid and extended improvements, is become very trifling, the proprietors have inadvertently submitted, to the raising a larger sum than was neces-

fary. The legislature wisely foreseeing the injustice of suffering persons to contract and pay for, as a perpetuity, what they are not, in reality authorized to be called upon for, as the *tax of the year*, have justly inserted this clause, which will tend to remedy the evil, where purchases have not been previously made.

Sect. 16.—Where any property is *omitted to be assessed*, in the land-tax rate, any person interested in the rate, may appeal to the commissioners of land-tax, in order that the manors, lands, or hereditaments omitted, may be duly charged, notwithstanding the time limited by the act, for making appeals, shall be past, upon notice of seven days to the assessor, who is to act thereon, as by this clause is specified.

Sections 17, 18, and 19—Direct the commissioners to hear such appeal, *to quash the former assessment*, and make a new rate, if necessary; but not to extend to persons, who shall have contracted for redemption, and who shall not have declared their option, to be considered as persons, not interested in the property.

The inequalities and inaccuracies, in the land-tax assessments *in the same parish* have ever been considered, as a considerable objection to the measure of sale. These clauses, with great propriety, apply a remedy, through which justice may be done, though not without additional trouble, to the commissioners, and probably some uneasiness, to the individuals, who are interested in the rate.

Sect. 20.—Enacts, that in the schedule or description, required by the act of the 38th of his present Majesty, it shall be sufficient to state “ the respective natures of the
 “ premises, and the name of the occupiers
 “ thereof, and the parish or place where
 “ the same shall be situated, and *such*
 “ *other circumstances, as the commissioners, or*
 “ *justices, or clerk of the peace, shall require,*
 “ *without stating therein, the quantities or re-*
 “ *puted quantities of such premises.*”

The certificate is the foundation-stone of the purchaser's title: the accuracy or inaccuracy of the description therein, may hereafter tend to facilitate, or to obstruct, the transfer of the land-tax purchased, *or even of the property, out of which it is issuing.* We must refer the reader, to the notes made upon the 17th clause or section, of the original act; and we cannot hesitate to infer, that the permission by this clause, to omit the statement of the quantities, is highly injudicious and improper: but we are at a loss to conjecture, why power is given to justices, or to clerks of the peace, to require other circumstances, to be added to the certificate, which will never be within either of their departments or jurisdictions, till after it has been presented to the commissioners for sale. The contract entered into thereon, is then to be produced at the Bank, and afterwards registered with his Majesty's commissioners for the affairs of taxes, agreeably to the mode directed by such 17th section. Surely it is not meant, that

afterwards, the original certificate, the groundwork of the fabric, should be altered *ad libitum* by either justices, or clerk of the peace? We conclude therefore, that this is one of the numerous instances, that too frequently occur, of the inconvenience of *hastily* altering laws, when the persons making such alterations have not a clear and comprehensive conception, of the plan or system, which they are desirous to carry into effect. The variation allowed in the *description*, in this clause is very material, in this point of view, that it entails on all purchasers of land-tax, and the future owners thereof, the necessity of producing, professionally, this amended act, in addition to the original one, as part of their title.

Sect. 21.—The powers to raise money, by the original or the amended act, are extended to those who redeem under the act, *by any other means*, than by actual sale of land under the act.

This is an addition of one story, to this building of Inconvenience: it is, if we conceive it, only saying, that if the proprietor redeems out of his own *personal* property, and afterwards changes his mind; or if he raises money to do it, by mortgage or grant, and should afterwards find himself immersed in any of the inconveniences already pointed out, he shall be at liberty to heap farther inconvenience, and expense, upon himself

himself and his family; and this must inevitably be the case, (far more considerable, than the trifling value of the land-tax, even if bought on very advantageous terms,) if a tenant for life, or others, having incurred a *mortgage*, or *grant*, in the first instance, should afterwards, from one, of various motives, be inclined to raise the money, by some other mode, or to sell part of the estate. It is probably unfortunate on this occasion, that some degree of legal professional knowledge, is requisite to convey an adequate idea, of the mischiefs that may result to the owners of real property, who incautiously venture into this additional labyrinth, to which they may be allured by this clause.

Sect. 22—Empowers justices in petty sessions, or the clerks of the peace, to grant certificates, in case the acting commissioners, *shall have refused to grant them.*

Commissioners of the land-tax, are men (generally speaking), of too much liberality, to refuse the certificates, unless upon some reason. They act for the state *without reward*. This removal of the tribunal from them, who must be proper judges, under the act, and their own rates, to the justices, who (unless they are also commissioners of land-tax, and in that case are *commissioners of appeal*), can know little of the ground of the refusal; or to the clerks of the peace, who will still know less, seems to be a
conduct

conduct highly insulting, to those commissioners, and may, with the additional trouble, thus yearly, and almost daily, heaping on them, tend to the detriment of the execution, of those branches of revenue, which are now, through their means, arranged and managed for Government; for the duplicates of the assessment, directed to be sent to the justices, and to the clerks of the peace, contain only names and sums, and are frequently so incorrect, that we observe the legislature has, by the 16th and 17th sections, of this very act (wherein this extraordinary change of tribunal is inserted), authorized the commissioners, to quash the assessment and direct a new one to be made. With a view to this clause, probably the insertion of justices, and clerks of the peace was made in clause 20.

Sect. 23—Directs the clerk of the peace, to take only 1s. for each *sum*, in each certificate.

The commissioners are, by the 17th clause of the act, to adjust, settle, and ascertain, the amount of the land-tax, charged on the particular premises. Is it likely the clerks of the peace, will take the proper pains, for this fee, to settle the certificate as it ought to be? for on the commissioners' refusal to grant it, can application alone be made to them? The ground of the refusal by the commissioners may be material to every

every landholder interested in the rate. How will the clerks of the peace investigate this with propriety?

Sect. 24—Gives to the representatives of redemptioners, entitled to receive an annual sum, from the estate equal to the land-tax redeemed, the same powers as for rents in arrear.

Sections 25 and 26—Empower joint-tenants, tenants in common, or coparceners, to apply to the commissioners, to settle and adjust, their respective proportions of the tax, in order that they may redeem.

Such an apportionment will not, it is apprehended, operate to sever a joint-tenancy. What therefore will be the situation of a joint-tenant, who redeems, and who after dies, omitting to do any act, to sever his joint-tenancy? It is perfectly clear, a joint-tenant cannot devise the estate he holds in joint-tenancy. Can he devise the tax he purchases?

Sections 27 and 28—Empower those persons, who are by the original act, or the amended one, authorized to sell any lands or hereditaments, to redeem, *to do so, from time to time*, to make good the *respective instalments*; and clause 28 directs, that when lands are decreed to be sold, in different counties, the proprietor shall produce certificates and affidavits, in the manner therein directed, of the former sales, to the commissioners of any other county, wherein the lands are to be sold, to make good subsequent instalments.

Can

Can the ingenuity of any who the Poet asserts,

— " can with ease
" Twist words and meanings as they please,"

show that the vesting of such power—as this, in any *tenant for life*, or other of limited estate, is not highly to be regretted, by all others interested in the property?

Sect. 29—Enacts, that where settled lands, cannot be properly divided, *the whole* may be sold, and the surplus money, " after purchasing stock sufficient to redeem the land-tax, and paying the costs and expenses attending such sale, shall be placed in the Bank, in the name of the accountant-general, and be in such manner, as by the first act, is directed, as to the surplus, where more shall be sold, than sufficient for redemption."

An inconsiderate perusal of this clause, might lead to a supposition, that it was a beneficial privilege, but we cannot help deeply lamenting, that the zeal of those, who have patronized this measure, should have urged them *to a clause of this importance*, creating an *extensive incursion on settled property*, attended in every instance, with great expense, subjecting the party to very great trouble, and leaving the future takers of the estate, no other resource, but to lament the injudicious rashness, of their ancestor, in quitting the substance, for a shadow; unless by his misconduct, or mistakes, in managing this machine
of

of privilege, he should open a door for litigation, which may be only shut, by the total extinction of his mutilated property.

Quid rides? de te fabula narratur.

Sect. 30—Respects the enfranchisement of copyholds by lords, not seised of the legal estate, and with a reference to the 41st and 42d clause of the original act.

Sect. 31—Enables parishes to apply trust-money in redemption, and refers to the 40th and 44th sections of the former act.—See the remarks on those clauses.

Sect. 32—Enables trustees for the poor clergy in England, to lay out their trust-money in redemption.

Sect. 33.—No glebe land shall be sold by the incumbent, unless the ordinary of the living shall certify his consent that the same shall be discharged from tithes, at the time of certifying his consent to the sale of the glebe.

Is not this clause contradictory to, and does it not therefore virtually repeal all those clauses which relate to the demand of assignment, by the patron, or by the subsequent incumbent?—If this be so, it is requisite that, before any one ventures to do any thing authorized by these acts, he should be perfectly acquainted with every clause in them, and how far they will stand together.

Sect. 34—Enables corporations and trustees for charitable purposes, to sell or redeem, notwithstanding bye-laws, &c.

Sect. 35—Authorizes lands to be sold for redemption, to be either by *private contract*, or public auction. The actual value (in case of private sale) being estimated, according to the directions of the commissioners, and verified upon oath.

A sale, otherwise than by public auction, should not in any case be admitted of *settled* property. The *estimate* of property, as required, being much dependent on opinion, and consequently fallacious; whereas, by *public sale*, local advantages might raise a contest, between other neighbouring proprietors, beneficial to the owners.

Sect. 36—Empowers the raising so much money, by such sale or charge, “as shall be
“ sufficient not only for the purpose of re-
“ deeming the land-tax,” but also for the
purpose of paying and satisfying “all such
“ costs and expenses, as the persons mak-
“ ing such sale or charge shall incur on
“ account thereof.”

This clause is very latitudinary. “All such costs
“ and expenses.” Does not this, instead of ap-
plying a *remedy*, increase the disease? Where,
amongst the many boasted advantages of this
measure, shall we find one, to recompense the
inconvenience, that the property is subjected to
by this clause?

Sect. 37—Authorizes *land*, exempt from land-
tax,

tax, to be sold, to redeem the tax on other lands.

This seems to have been quite unnecessary.

Sections 38, 39, and 40—Empower copyholders, and holders by beneficial leases, to sell for redemption, but not till two months shall have elapsed, after an offer to the persons beneficially entitled;—and directs the mode of application of the purchase-money.

Wherever it happens, that there is a mixed interest of parties, in the same property, as lessor and lessee, any clause that affects them merits minute attention. Thus it is here, and the importance of the subject cannot be more forcibly illustrated, than by considering the next clause, which

Sect. 41—Enacts, that *in all cases*, where the tax shall be redeemed, by the sale of any part of the property, comprised in such *beneficial leases*, the remainder of the manors, messuages, lands, and hereditaments, which
 “ shall not have been sold, *shall be charge-*
 “ *able with a yearly sum, or sums respectively,*
 “ *by way of rent-charge, payable half-yearly,*
 “ *at Lady-day and Michaelmas,*” and shall be recoverable in the same manner as rents in arrear.

These clauses do not appear to the author to be framed with so much perspicuity as is requisite, and it will be well for persons entitled under beneficial leases, (which at this day con-

stitute a very considerable part of the property of the kingdom), if they should be satisfied with their own conduct, and can justify themselves to their families, for running the gauntlet under these clauses—to which the observations made on several preceding ones, apply with great force.

Sections 42 and 43—Empower *copyholders* to sell, mortgage, or charge, for the purpose of redemption, in all respects as by the original act is directed, with respect to freehold estates.

It is needless to do more than refer the copyholder to the general remarks already made on the different clauses of the original and amended acts which relate to the sale of freehold estates, or encumbering the same by mortgage or grant of rent-charge

Sect. 44—Authorizes *canal companies* to raise money for redemption, either by calls upon the proprietors, or by mortgage, or any other means, by which they are empowered to raise money; and also “for the *respective proprietors* to redeem his or their “share or proportion in the same, or the “shares of other proprietors in like manner, as joint-tenants.”

In the prosecution of a scheme of this nature, it may be thought necessary to insert a power of this sort: if however, the proprietors act, without that kind of sway, which now too much

regulates and governs such companies, they will be the last persons to embark in it. They cannot, it is well known, in many instances, at this day, raise money to carry on their works, the furtherance whereof, will be much more beneficial to them than raising money, to pay a greater income to redeem a less; and more especially, as from their own improvements, and those, which they daily give rise to, on the estates of others, adjoining, or near to their works, they may entertain a *fair and reasonable expectation*, that the *land-tax* they now pay will be *abated*, by the assessments in subsequent years, in almost *every parish* or district through which their canals pass. But although a reason may be discerned, for the *former part* of this clause, empowering the canal company, as a corporation, to redeem; the author is utterly unable to account for the *latter part* of it, giving power to the *respective proprietors* to redeem their proportion, or those of others. He touches however tenderly, on this point, under the presumption that his difficulty arises from a want of knowledge in canal property, as meant to be operated upon by this act, rather than from want of due intelligence, in those who have framed it. From his conception, the thing is *impracticable*, and if it were otherwise, would be highly impolitic.

Sect. 45—Directs, that where the money to
be

be raised by sale or mortgage for redemption, shall not exceed 1000*l.* neither the indentures thereof, or their inrolment, nor the transfer of stock, nor letter of attorney, nor affidavit under the act, shall be liable to any stamp duty whatever.

This clause seems to extend only to the deeds of sale or mortgage *in the first instance*, and not to be extended to a re-sale of the land, nor to a transfer of the mortgage, although the party may have occasion immediately to assign the same.

Sections 46 and 47---Enlarge the time for registering contracts, under the acts—and direct the mode of registering deeds, where the consideration is under 200*l.*

Sect. 48---*Consolidates* the original act and the amended one in their provisions, except where *the former* is varied by *the latter*.

Sect. 49---Declares, that the acceptance of the office of *commissioner for sale*, shall not be deemed a place of profit under his Majesty, but that the same shall be deemed a place under the authority of the act.

Sect. 50---Provides, that the amended act may be altered, varied, or repealed, during the present session.

The necessity, or the propriety, of any further act, under this last clause, will depend entirely on the wisdom of the legislature. In disclosing his ideas on this measure, and on these acts to effectuate it, the author hopes he has used every possible

possible brevity, and that he has not, from that motive, written obscurely. He has, indeed, been the more concise, from the supposition, that the generality of his readers are sufficiently versed in the *nature of property*, the *laws and regulations respecting it*, and the *forms of proceedings in courts of justice*, as far as the same are the subject of reference by these acts, to render it unnecessary in him to have been more diffuse in order to prove that with respect to the *land-tax in its present state*, and under the acts for its redemption and sale, constructed as they are, we may say with Shakespeare, that better it is

“ —————to bear the ills we have,

“ Than fly to others that we know not of.”

And he feels confident that he has during the progress of his remarks, constantly kept in view the principles and positions he professed at the beginning, and has carefully avoided treating this measure in a *political* point of view.

THE END.

politic feeling and that it has not from that
motive, written obsequiously. He has, indeed,
been the more conciliatory, than the independent, that
the majority of his readers are naturally disposed
in the matter of property, the law, and rights.
He is, however, and the cause of the law
is, in fact, of justice, as far as the law and the
right of resistance by the people to render it
unnecessary in him to have been more diffuse
in order to prove that with respect to the
law, as it is given, and under the law
for its redemption and the, of the law, they
are, we may say, with Shakespeare, that better



And he is content that he has during the
progress of his remarks, occasionally kept in view
the principles and positions he proposed at the
beginning, and has not wholly neglected the
interest in a systematic point of view.

